

# ELLIS:LAWHORNE

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March 22, 2007

## **FILED ELECTRONICALLY AND BY FIRST-CLASS MAIL SERVICE**

The Honorable Charles L.A. Terreni  
Executive Director  
**South Carolina Public Service Commission**  
Post Office Drawer 11649  
Columbia, South Carolina 29211

RE: dPi Teleconnect, LLC, Complainant/Petitioner  
v. BellSouth Telecommunications, Inc., Defendant/Respondent  
**Docket No. 2005-358-C, Our File No. 536-11404**

Dear Mr. Terreni:

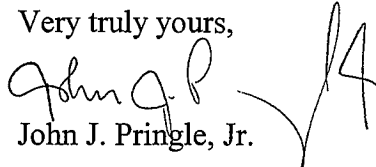
Enclosed please the original and one copy of the **Motion to Compel** and **Motion for Continuance** for filing on behalf of dPi Teleconnect, LLC in the above-referenced docket.

Please acknowledge your receipt of this document by file-stamping the copy of this letter enclosed, and returning it in the enclosed envelope.

If you have any questions or need additional information, please do not hesitate to contact me.

With kind regards, I am

Very truly yours,

  
John J. Pringle, Jr.

cc: Nanette Edwards, Esquire  
Christopher Malish, Esquire  
Mr. Brian Bolinger  
all parties of record

Enclosures

**THIS DOCUMENT IS AN EXACT DUPLICATE OF THE E-FILED COPY SUBMITTED TO THE COMMISSION IN ACCORDANCE WITH ITS ELECTRONIC FILING INSTRUCTIONS.**

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

**DOCKET NO. 2005-358-C**

<b>In Re:</b>	)	
	)	<b>dPi's Motion to Compel</b>
<b>dPi Teleconnect, L.L.C. v.</b>	)	
<b>BellSouth Telecommunications, Inc.</b>	)	

dPi Teleconnect, L.L.C. ("dPi"), Complainant in this Docket, hereby moves the South Carolina Public Service Commission to compel production of requested discovery materials from BellSouth Telecommunications, Inc. ("BellSouth"). Dpi has communicated with counsel for BellSouth in a good faith attempt to resolve this matters contained in this Motion.

**BACKGROUND**

This case turns on improper denial of credits. Pursuant to federal law, BellSouth must provide service to CLECs, such as dPi, at the same rate at which it provides service to its own end users. BellSouth denied credits dPi requested without disclosing the reasons for denial. Fundamental to the determination of whether credits were improperly denied and the value of these credits are: (1) how much BellSouth's customers were charged for the same services dPi requested; (2) the reasons dPi was denied credits; and (3) the monetary amount of credits denied for each reason of denial. Without this information – all of which is in BellSouth's possession – dPi cannot present its case.

**DISCOVERY REQUESTS AND REASONING**

In an attempt to discover the necessary facts, dPi made the following requests:

**1-23.** Please identify any and all occurrences, on a month to month basis beginning January, 2002, of an end user ordering from BellSouth basic service plus any two of the three following features: the call return block (bearing in North Carolina the

Universal Service Ordering Code ["USOC"] of "BCR"); the repeat dialing block ("BRD"); and the call tracing block, and "HBG" block. Please indicate what these customers were charged when implementing these services, including any and all recurring charges, non-recurring charges, and promotional charges.

**2-3.** Please supplement your response to **RFI 1-16 of dPi Teleconnect's First Set of Request for Information to BellSouth Telecommunication, Inc.**, ("For each of categories of promotions for which dPi Teleconnect, LLC, applied for credit but was denied, please indicate the amount of credit requested; the amount of credit granted; and the amount of credit denied, from January 1, 2002, to the present.") to indicate, for each of the reasons identified as a reason why dPi Teleconnect, LLC, was not eligible for a particular credit, the total dollar amount of credits applied for but denied for the particular reason given.

In other words, dPi Teleconnect, LLC, wants to know how many times/how much credit was denied for every reason given as a reason for denying credit.

#### **MOTION TO COMPEL RFI 1-23**

In response to Request for Information 1-23, BellSouth has taken the position that it will not provide data prior to January of 2005, rather than providing data from the requested date of January 2002, on relevancy grounds. It is respectfully requested that data be provided for the entire time requested, for the reasons described below.

RFI 1-23 was propounded because it is anticipated that BellSouth will take the position that it does not – *and has not* – provided the promotion to its end users in the way that dPi claims it is entitled to qualify for the promotion.

To test this contention, therefore, dPi must first establish

- (1) whether any other BellSouth customers have attempted to acquire this combination of features/elements; and
- (2) if so, what they were charged when connecting service.

Furthermore, the most critical timeframe over which to examine this evidence is not from

January 2005 to the present – after BellSouth decided, in response to being confronted with requests for credits from dPi, that it would not allow people to qualify for the promotion in this way – but how it was charging people *before* this became a contested issue and was subjected to scrutiny and BellSouth's practices modified in response to a perceived liability. Overall, dPi sought credits in September 2004 for services rendered going back to 2003. Thus, the relevant time frame involved goes back at least to 2002, which gives dPi discovery of matters before dPi's requests affected BellSouth's policies.

### **MOTION TO COMPEL RFI 2-3**

BellSouth also fails to respond to Request for Information 2-3, which asks BellSouth to list the *reasons* that it denied particular credit requests. BellSouth appears to be refusing to answer this RFI on the grounds that (1) it has the data but it is overly burdensome to gather; and (2) dPi can figure the answer out for itself.

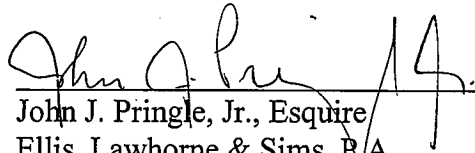
dPi asked for this information precisely because it does not know, and has no way of knowing, *why* any particular promotion request was denied, because BellSouth never provides this information in the ordinary course of business. dPi is just given an aggregate number, and told "REQUEST FOR \_\_\_\_ AMOUNT OF CREDIT DENIED." There is no way to audit such a statement. These unsupported and vague denials are the reason dPi has had to turn to the Commission.

Moreover, this request is burdensome only because of the manner in which BellSouth has elected to maintain its databases. BellSouth should not be able to deny credits requested by CLECs such as dPi, then hide behind the inflexibility of its own databases to prevent CLECs from verifying the denials.

This information is critical in focusing the parties' resources on those issues that really matter: no side wants to spend thousands of dollars in legal time on a dispute worth \$100. BellSouth responded to this question in North Carolina, and its responses were instrumental in allowing the parties to eliminate from the dispute a large number of thorny issues whose total dollar value didn't merit litigation.

Wherefore, dPi requests a Commission Order compelling BellSouth to respond to the requested discovery within a reasonable time, and granting such other relief as is just and proper.

Respectfully submitted,

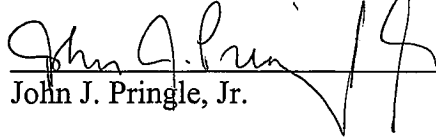


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Attorney for dPi Teleconnect, L.L.C.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the above document was transmitted to parties of record via electronic mail and first-class mail service on March 22, 2007.

  
\_\_\_\_\_  
John J. Pringle, Jr.

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